

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

RODRIGUEZ WHORTON,

Petitioner,

v.

Case No. 10-13902  
Hon. Lawrence P. Zatkoff

PAUL KLEE,

Respondent.

/

**ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION**

**I. INTRODUCTION**

This matter is before the Court on Petitioner's Motion for Reconsideration [dkt 31]. Pursuant to E.D. Mich. L.R. 7.1(h)(2), a response to Petitioner's motion is not permitted. As such, the Court finds that the facts and legal arguments are adequately presented in Petitioner's motion and brief such that the decision process would not be significantly aided by oral argument. Therefore, pursuant to E.D. Mich. L.R. 7.1(h)(2), and 7.1(f)(2), it is hereby ORDERED that the motion be resolved on the brief submitted. For the reasons set forth below, Petitioner's motion is DENIED.

**II. BACKGROUND**

Petitioner's motion challenges the Court's September 20, 2013, Order adopting the Magistrate Judge's Report and Recommendation [dkt 30]. The Magistrate Judge found—after reconsidering his previous Report and Recommendation [dkt 23] in light of Petitioner's objections [dkt 26]—that this Court should nonetheless deny Petitioner's application for writ of habeas corpus and certificate of appealability. The Court determined the Magistrate Judge's reasoning to be sound and adopted the Report and Recommendation.

### **III. LEGAL STANDARD**

Local Rule 7.1(h) governs motions for reconsideration, stating that a “motion for rehearing or reconsideration must be filed within 14 days after entry of the judgment or order.” E.D. Mich. L.R. 7.1(h)(1). “The court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication.” E.D. Mich. L.R. 7.1(h)(3). The same subsection further states, “[t]he movant must not only demonstrate a palpable defect by which the court and the parties . . . have been misled but also show that correcting the defect will result in a different disposition of the case.” *Id.* A defect is palpable when it is “obvious, clear, unmistakable, manifest, or plain.” *Chrysler Realty Co., LLC v. Design Forum Architects, Inc.*, 544 F. Supp. 2d 609, 618 (E.D. Mich. 2008).

### **IV. ANALYSIS**

Petitioner’s motion fails to state a palpable defect by which the Court has been misled. Rather, Petitioner’s motion presents issues that the Court has already ruled upon. *See* E.D. Mich. L.R. 7.1(h)(3). Further, the motion indicates only Petitioner’s disagreement with the Court’s ruling. Such disagreement is not a proper premise on which to base a motion for reconsideration. *See, e.g., Simmons v. Caruso*, No. 08-cv-14546, 2009 WL 1506851, at \*1 (E.D. Mich. May 28, 2009); *Cowan v. Stovall*, No. 2:06-CV-13846, 2008 WL 4998267, at \*2 (E.D. Mich. Nov. 21, 2008).

### **V. CONCLUSION**

Accordingly, and for the reasons set forth above, IT IS HEREBY ORDERED that Petitioner’s Motion for Reconsideration [dkt 31] is DENIED.

IT IS SO ORDERED.

Date: March 3, 2014

s/Lawrence P. Zatkoff  
 LAWRENCE P. ZATKOFF  
 U.S. DISTRICT JUDGE